

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DR. HANSEL M. DeBARTOLO)	
)	
Plaintiff,)	Case No. 07 C 7179
)	
v.)	JUDGE ZAGEL
)	MAGISTRATE JUDGE KEYS
SUBURBAN TEAMSTERS OF NORTHERN)	
ILLINOIS WELFARE FUND,)	
)	
Mutual Group.)	

**MOTION OF DEFENDANT SUBURBAN TEAMSTERS
OF NORTHERN ILLINOIS WELFARE FUND TO DISMISS COMPLAINT**

Defendant SUBURBAN TEAMSTERS OF NORTHERN ILLINOIS WELFARE FUND ,
(hereinafter "Welfare Fund"), by and through its attorneys, Librado Arreola and Barry Collins of
Asher, Gittler, Greenfield & D'Alba, Ltd., pursuant to FRCP 12(b)(6), moves this Honorable
Court to dismiss Plaintiff's Complaint in its entirety for lack of standing. In support of this
Motion, Plaintiff states:

1. Plaintiff filed his Complaint against Defendant on December 21, 2007. See Docket entry document number 1.
2. Plaintiff's Complaint alleges in paragraph 9 of Count I that a participant in the Welfare Fund assigned his rights to benefit payments to Plaintiff. See Docket entry document number 1.
3. Plaintiff seeks payment from the Welfare Fund in the amount of \$8,503.99, as an assignee pursuant to the assignment. See Docket entry document number 1 paragraph 11.
4. In Count II, Plaintiff seeks monetary relief due to the Welfare Fund's alleged failure to provide Plaintiff with certain information.

5. Plaintiff's right to payment in Count I and to the information sought in Count II of the Complaint is premised on the theory that Plaintiff is an assignee of the participant.

6. The assignment relied upon by Plaintiff is attached to the Complaint as Exhibit A. The language of the assignment states: "I assign my medical benefits and rights from Teamsters Local No. 142 to Dr. H.M. DeBartolo Jr., for services rendered." See Exhibit A attached hereto.

7. The Defendant in this action is the SUBURBAN TEAMSTERS OF NORTHERN ILLINOIS WELFARE FUND. The Welfare Fund is not the union known as "Teamsters Local No. 142," which is named in the alleged assignment.

8. Plaintiff's alleged assignment is invalid and Plaintiff is therefore neither a "participant" nor a "beneficiary" under ERISA.

WHEREFORE, the Welfare Fund requests that this Honorable Court grant its motion and to Dismiss the Complaint in its entirety.

Respectfully submitted,

Defendant SUBURBAN TEAMSTERS OF
NORTHERN ILLINOIS WELFARE FUND,

/s/ Librado Arreola
Librado Arreola

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